

Translation

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PCT/EP2003/007755

INTERNATIONAL COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P801336/WO/1	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/007755	International filing date (day/month/year) 17 July 2003 (17.07.2003)	Priority date (day/month/year) 02 August 2002 (02.08.2002)
International Patent Classification (IPC) or national classification and IPC E05B 15/02		
Applicant DAIMLERCHRYSLER AG		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 4 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 13 January 2004 (13.01.2004)	Date of completion of this report 13 December 2004 (13.12.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International Application No.

PCT/EP2003/007755

## I. Basis of the report

### 1. With regard to the elements of the international application:\*

- ☐ the international application as originally filed
- ☒ the description:  
 pages 1-13, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the claims:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, as amended (together with any statement under Article 19  
 pages \_\_\_\_\_, filed with the demand  
 pages 1-11, filed with the letter of 04 October 2004 (04.10.2004)
- ☒ the drawings:  
 pages 1/4-4/4, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

### 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

### 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

### 4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

### 5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 03/07755

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims	1-11	YES
	Claims		NO
Inventive step (IS)	Claims	3-11	YES
	Claims	1, 2	NO
Industrial applicability (IA)	Claims	1-11	YES
	Claims		NO

**2. Citations and explanations****1. Reference is made to the following documents:**

D1: DE 198 40 520 A

D2: US 5 066 056 A.

**2. No document discloses a system having a power closing device together with a stationary striker. The subject matter of claim 1 is therefore novel (PCT Article 33(2)).****3. The present claim 1 relates to a system having a stationary striker and a power closing device. Neither the stationary striker nor the power closing device is described in detail in the claim. The stationary striker comprises mounting apertures. No further structural features are defined. The power closing device is also defined in very general terms. It comprises a striker support which is mounted on a bearing plate and which can be adjusted by a drive device. The bearing plate has mounting apertures.****4. The apertures in the bearing plate are congruent with the mounting apertures in the stationary**

striker. The vehicle body can therefore have a uniform arrangement of the through-holes. The same vehicle body can therefore be used for either a stationary striker or a power closing device.

5. In the automotive field, however, the use of uniformly positioned mounting apertures for use with different parts is generally known. When different versions of a car model are produced, different components are fitted using the universal mounting apertures.
6. The mounting of a very general stationary striker or of a very general power closing device by means of the same mounting apertures therefore appears to be obvious. It would, for example, be obvious to use the screw bores shown in D2, figure 1, also for a stationary striker when producing a cheaper model of the car. The subject matter of claim 1 does not therefore appear to involve an inventive step (PCT Article 33(3)).
7. Claim 2 does not define any distinct technical limits of the subject matter of the invention. Instead, it relates to suitable, not clearly limiting, uses of the system according to the invention. The subject matter of this claim therefore also appears to be obvious.
8. Claim 3, in the form dependent on claim 2, satisfies the requirements of PCT Article 33. D1 discloses a power closing device largely corresponding to the power closing device according to the invention. The drive device 23 and the bearing plate 12 in figure 3 could undoubtedly be mounted on the rear

side and front side, respectively, of a retaining section. Threaded apertures in the drive device are not, however, described. It can, moreover, be assumed that in D1, figure 3, only the two upper apertures of the bearing plate are used for mounting on the retaining section (cf. in this context the embodiment in figure 1, where the bearing plate is mounted by means of screws 17 only on the side further away from the drive side).

9. The lower apertures of the bearing plate in D1, figure 3, are consequently used only for the mounting between the bearing plate and the drive. If the power closing device as defined in D1 were replaced by a stationary striker, a person skilled in the art would mount the stationary striker only by means of the "upper" two apertures. Without inventive input the apertures of the drive device would therefore not be made congruent with the mounting apertures of the corresponding stationary striker. A system as defined in claim 3 is therefore considered to be inventive.
10. Claims 4 to 11, in the form at least dependent on claim 3 (cf. PCT Rule 6.4(c)), likewise satisfy the PCT requirements for novelty and inventive step.